

Serial No. 10/020,450

Docket No. 0109-UTL

Reply to Office action of July 8, 2003

II. REMARKS

Claims 1-62 were pending in the present application. Applicants acknowledge allowance of claims 1, 2, 4, 6, 9-23, 33-38, 42-47, and 51-62.

By virtue of this response, claims 3,5,7,8,24-32,39-41 and 48-50 stand canceled. The amendments are made solely to promote prosecution without prejudice or disclaimer of any of the previously or presently claimed subject matter.

Reconsideration of the rejections set forth in the Office action dated July 8, 2003 is respectfully requested. Applicants have carefully considered the points raised in the Office action and believe that the Examiner's concerns have been addressed as described herein, thereby placing this case in condition for allowance.

Rejection of Claims 3,5,7,8,24-32,39-41 and 48-50 Under 35 U.S.C. §112, Second Paragraph

The Examiner has rejected claims 3,5,7,8,24-32,39-41 and 48-50 under 35 U.S.C. §112 (second paragraph) for indefiniteness. Specifically, the Examiner notes lack of antecedent basis for the term "metabolite". By virtue of this response, claims 3,5,7,8,24-32,39-41 and 48-50 have been canceled without prejudice or disclaimer of any previously claimed subject matter. Accordingly, withdrawal of the rejections under this section is respectfully requested.

Rejection of Claims 3,5,7,8,24-32,39-41 and 48-50 Under 35 U.S.C. §112, First Paragraph

Enablement. The Examiner asserts that the specification fails to provide sufficient guidance or support to enable the worker of ordinary skill in the art to use any metabolite of gamma, delta or beta tocopherol in the treatment of neuronal damage associated with cerebral ischemia.

By virtue of this response, claims 3,5,7,8,24-32,39-41 and 48-50 have been canceled without prejudice or disclaimer of any previously claimed subject matter. Accordingly, withdrawal of the Examiner's objections to the specification under 35 U.S.C. §112, first paragraph, is respectfully requested.

B

Serial No. 10/020,450

Docket No. 0109-UTL

Reply to Office action of July 8, 2003

III. SUMMARY

Applicants respectfully submit that all issues raised in the Office action have been properly addressed in this response and that the claims pending in the application are now in condition for allowance. Accordingly, a Notice of Allowance of the pending claims is respectfully requested. If the Examiner feels that a telephone interview would serve to facilitate resolution of any outstanding issues, she is encouraged to contact the undersigned at the telephone number provided below.

The amendments are made solely to promote prosecution without prejudice or disclaimer of any previously claimed subject matter. With respect to all amendments and canceled claims, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover has not acquiesced to any rejections and/or objections made by the Patent Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded subject matter or claim embodiments in one or more future continuation and/or divisional application(s).

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 50-2247 referencing docket no. 0109-UTL.

Respectfully submitted,

Dated: November 10, 2003

By: Michelle Y. Walker
Registration No. 53,903Galileo Pharmaceuticals, Inc.
5301 Patrick Henry Drive
Telephone: (408) 654-5830 x179
Facsimile: (408) 654-5831